existed between him and Washington were subjects of unusual interest in the hands of the eloquent lecturer; while the numerous historical incidents which were interspersed throughout, added much to the profit of the discourse.

On Sunday last, a numerous procession of his friends accompanied to their last repose the earthly remains of Dr. Hermann E. Ludwig. The deceased was born in Saxony, and received there a thorough German education. He began his career in the civil service of his country, but finally settled in the United States, and practiced law at the New-York bar. His active mind sought relaxation from the occupations of his vocation in various studies. He was especially devoted to the study of the philology and history of the aborigines of the American continent, and to the bibliography of the United States. A valuable work soon to be published in England is a result of his labors; its title is "Bibliotheca Glottica." Dr. Ludwig was a member of several scientific societies in this country and in Europe. Still more than by his scholarly accomplishments was he distinguished by the friendliness of his intercourse and his readiness to serve all who asked his advice. His judgment was always clear, sound and intelligent. He formed a tie between the numerous immigrants from European nationalities to this country, and above all was a friend and guide for his German compatriots. In this respect his loss will be felt deeply, and he will not easily be replaced. He possessed all the best qualities of a genuine, expansive German nature, with few if any of its shadowy sides. G.

On the 8th inst., at a meeting of the General Term of the Supreme Court of this District, present the presiding Justice Roosevelt, and Justices Davies and Peabody, Charles Louis Spilthoorn was admitted to practice as an Attorney and Counseller in this City and State.

Mr. Spilthoorn was Governor-General of Flanders, and resigned his post upon the establishment of a monarchy in Belgium, upon the accession of Leopold I. He then became one of the most eminent advocates in Belgium, enjoying a large practice in the leading tribunals of Ghent and Brussels; but eminent as he was as an advocate, he was more widely known as one of the leading minds of the Republican party of that country, a party that looked forward to the establishment of a Republic upon the principles of the old Flemish Constitution. His talents, prominent position, and great influence with the people, rendered him an object of watchful solicitude by the Government. At the breaking out of the French Revolution, he was sent as the delegate of the Republican party to congratulate the French Government upon the establishment of a Republic. While in Paris he used his influence with Lamartine, Arago, and Ledru Rollin, to avert the meditated invasion of Belgium by the French, and succeeded upon the ground that the Belgian people would, in due time, establish a Republican government for themselves; but upon his return to Belgium he was arrested as a person dangerous to the preservation and peace of the country. In the Continental monarchies of Europe, a political accusation once resolved upon by the Government is equivalent to a conviction, the trial and condemnation being a mere matter of form. He was condemned and imprisoned in the fortress of Huy, in which imprisonment he remained six years, when he was released by order of the King upon his giving his parole of honor that he would depart from the kingdom and reside permanently in the United States. He accordingly came to this country, and during his residence in this city has devoted himself assiduously to the study and acquisition of our laws, with the view of establishing himself in the practice of his profession in this city. Dr. Spilthoorn is a very learned man; he speaks fluently seven languages, and is acquainted with nearly a dozen more. He is a man of unblemished integrity of character, and we are happy to learn that his thorough knowledge of the laws of Holland, France and Belgium, has already opened to him a lucrative practice in the commercial cases growing out of the extensive business relations subsisting between these countries and this commercial metropolis.

GOOD FOR SOMETHING, AFTER ALL.—Having an abiding faith in the axiom that nothing was created in vain, we have long sought for some apology for the existence of those wretched little creatures known as poodle dogs, and at last we have found out their uses. A lady who kept one of the curly abominations recently lost her pet, and called upon a policeman to find it. The next day the officer came with the dog, which was very wet and dirty. The lady was overjoyed, and asked forty silly questions, among others, "Where did you find the dear baby?" "Why, marm," replied the officer, "a big nigger up in Sullivan street had him tied to a pole and was washing windows with him."

NEW-YORK LEGAL RIGHTS ASSOCIATION.—This (colored) organization held a meeting in Shiloh Presbyterian Church, Prince street, last night. Mr. Jennings, President of the Association, occupied the chair. Addresses were delivered by the Chairman, Mr. P. S. Porter, the Rev. Dr. Pennington, Professor Reason and Capt. J. J. Simons. It was stated by Mr. Porter that the Rules of the Eighth Avenue Railroad for the direction of conductors contain the following: "If a "colored person gets upon a car, the conductor must "ask the passengers if they have any objections to the "colored passenger. If any one objects, then the "conductor must put the colored person off."

A series of resolutions was offered and unanimously adopted.

Notice was given of the Rev. Dr. Pennington's case with the Sixth Avenue Railroad, which is to come off at the Superior Court to-day. A collection was taken amounting to $10, to assist in carrying out this and other cases which come under the auspices of the Association.

The story which has been going the rounds of some of the Western Democratic papers, stating that Dr. Pennington's case was being carried on at the instance of Mr. Downing, the oyster man, is entirely false, and without the shadow of a foundation.

RELIEF FOR THE FRENCH EXILES.—At a meeting held on Sunday last to afford relief to the exiles from Cayenne, the Subscription Committee made a report from which it appears that $396 23 have been collected, with several subscription lists yet to hear from. Of this sum $275 is on deposit in the Broadway Savings Institution, and $52 43 on hand; the rest went for contingent expenses. The money was collected from New-York, Newark, Paterson and Philadelphia, and among the donors was Gerrit Smith, who gave $10. Considerable discussion arose as to the disposition of the money, and some blame was thrown upon the Collecting Committee. Several of the exiles wished their share of the money immediately—a desire that led to an acrimonious debate. It was contended that the money should not be distributed until the sixteen other exiles, now on their way, should come to the city. However, it was finally decided to give a twenty-fifth part of the sum now in hand to those who desired it, on condition that they would waive all further claim on the lists now out. It was stated that several of the exiles are already at work, and that among the contributions were sundry donations of clothing. Messrs. Duprat, Lejeune and Bealet were appointed an Auditory Committee, after which the meeting adjourned.

SAVAGE FIGHT BETWEEN POLITICIANS.—John C. Frazer, a Thirteenth Ward politician, and Francis Clark, a politician of the Eleventh Ward, got into a fight on the 13th inst., when the former was severely beaten and kicked, and came near having his nose bitten off by his adversary, who got it between his teeth. Frazer made a complaint against Clark before Justice Brennan, and the Magistrate issued a warrant for the arrest of the offender.

ONE OF THE POTATOES.—Henry Gridley of Clinton, Oneida County, N. Y., raised a potato of the Western red variety that weighed one pound ten ounces, and measured one foot four inches in circumference. This would not look like a large potato in California, but in this region and age of degeneration of potatoes, it is rather remarkable.

FOURTH WARD EVENING SCHOOLS.—We passed a couple of hours in the Evening Schools of the Fourth Ward last evening, in company with several of the officers of the Ward. The classes in Mrs. Lynch's school were getting along very favorably, the higher classes being unusually advanced in reading and penmanship. The attendance is about 170, with eight teachers. In Mrs. Gallagher's school for boys the attendance is 206, with seven teachers. Both schools are in good condition, and are answering their purpose.

Mrs. E. Oakes Smith delivers a lecture in the girls' school this evening, the subject being "The Dignity of Female Labor."

AWFUL DEATH.—At Chappequa, Westchester County, on Tuesday last, Mrs. J. Stockwell, wife of John Stockwell, an Englishman, lay down on the Harlem Railroad track, just before the arrival of the Albany Mail train, by which she was torn into shreds. It is doubtful whether she did this purposely or otherwise.

RAILROAD BRIDGE BURNED.—The large railroad bridge across the canal at West Troy was entirely destroyed by fire, together with 200 feet of pile bridging, at 8 o'clock on Sunday morning. How the fire originated is not known, nor the amount of the loss. It is said that it will take four or five days to repair the damage done.

EXTENT OF LIQUOR SELLING AND DRINKING.

To the Editor of The N. Y. Tribune.

SIR: Your reporter misunderstood my remarks at the Tabernacle on the 11th inst. I there stated that, as the result of my investigations, this city contained 15,431 saloons, dram shops, and other places in which intoxicating liquors are sold at retail, that in the great majority of those places it is drank on the premises, and that, estimating the population at 750,000, there must be about 400,000 *drinkers*. This number includes, of course, the temperate and intemperate drinkers of all ages and of both sexes. You add that "the entire "population of the city over 15 years of age is hardly "400,000." I am sorry to say that very many of our population under that age are drinkers, and not a few of them are drunkards. Our criminal courts proclaim this terrible truth too plainly every day, in its proceedings, and it presents one of the most alarming aspects of the city of our pride and our hope.

As I am on the subject of errors, I will add that the language attributed to me in THE TRIBUNE a few days ago was never uttered by me; but, except for the present opportunity, I should not have noticed it, presuming no misstatement was intended.

Very respectfully, L. S. CAPRON.

New-York, Dec. 15, 1856.

We stated a day or two since that Mr. Henry C. Bishop had been arrested on a charge of fraud for passing a worthless check drawn by Edwin F. Travis. It is due to Mr. Bishop to say that upon a full knowledge of the facts and of the worthlessness of the check being brought home to him by Mr. Price, the complainant, he, Mr. Bishop, immediately arranged to pay the check and to make full amends for his mistake in the matter. The complaint was thereupon withdrawn.

BURGLARY.—Owen Farrell, a young man, was arrested yesterday, charged with breaking into the stable of Mr. Geo. Smith, who resides at No. 86 Sheriff street, and stealing therefrom a set of harness. The property was found in possession of the accused by Officer Loomis of the Eleventh Ward Police, and he was committed by Justice Brennan for trial.

NEW-YORK HOSPITAL.—Weekly Report to Dec. 12, 1856:

	Surgical.	Medical.	Total.
Remaining on Dec. 5	184	122	306
Admitted to Dec. 12	40	22	62
Discharged, cured or relieved	33	28	61
Died	1	2	3
Remaining at date	190	114	304

Males, 246; Females, 58.

J. DARRACH, Superintendent.

BROOKLYN ITEMS.

DAMAGE BY THE STORM.—Considerable damage was caused by the gale on Sunday night. A row of five brick buildings in Hamilton street near Myrtle avenue were leveled with the ground. They were in process of construction, but had not yet been closed in. The damage caused is about $2,000.

Two new houses in Degraw street were divested of a portion of their roofs.

The coal house corner of Fulton and Furman streets had one story blown in.

The rear walls of the building No. 38 Fulton street, burned out on Friday night, were blown down.

A number of houses, in various parts of the city, were damaged, and several fine trees were blown down.

Yesterday morning, a row of five three-story brick buildings in course of construction in Rodney place, near Division avenue, were blown down by the violence of the gale. They were being erected by Thos. Riley, builder, whose loss will probably be about $1,500. Four other buildings owned by Mr. Riley, in Wilson street, were partially destroyed.

Two of the ferry-boats that had been laid up for the night at the foot of South Seventh street, drifted from her moorings, by the force of the wind. One of them came in collision with a barge, which was slightly damaged.

THE BROOKLYN COMMON COUNCIL.

To the Editor of The N. Y. Tribune.

SIR: If you wish to "behold with how little wisdom "the world is governed," come over to Brooklyn, and we will show you a body of Solons in our City Hall "that can't be beat." Pat, when he stood on the limb of a tree and sawed it off between himself and the trunk, was a fool to them, and so were Moses and Lycurgus. They are as industriously and stupidly engaged in damaging Brooklyn as they know how to be. If they succeed in their schemes, they will succeed in stopping all but one of our ferries, and in reducing the value of property here at least fifty per cent., if not more.

For some weeks past a series of attacks, equally vehement and venomous, have been waged against the Managers of our ferries. Suddenly it was discovered by certain New-York newspapers that we Brooklynites were the most outraged people on earth; that our ferries, which we had always boasted of, and travelers had described as the best in the world, were utterly abominable, and that the fare, which at the present rates we had supposed the cheapest in the world, was the most extortionate. What was the motive of this sudden and excessive sympathy for our previously unfelt ills we did not know. The spleen of certain persons who could no longer cross the ferries without paying their fare like other people, and the earnest desire of speculators in New-York up-town lots to shut out the competition of Brooklyn, seemed hardly sufficient reasons for these malignant and simultaneous attacks. But as some of the New-York papers are so furious on the subject, our Common Council seem to think that they must join in the chorus, and are trying to see what they can do to break down the ferries, *on the continuance of which the very existence of Brooklyn depends.*

By the official sworn return of the managers it is shown that none of the ferries between the Wallabout Bay and Buttermilk Channel sustain themselves, except that at Fulton street, the surplus receipts of which barely suffice to pay the deficiency on the others; that unless such surplus is so appropriated, the other ferries cannot be run; and that unless the system of "commutation" is stopped, and everybody made to pay alike, the means will be inadequate to continue all the ferries and secure the indispensable improvements of new boats, &c.

The assailing wiseacres for sometime insisted that not a farthing more should be charged for crossing the Fulton Ferry than would suffice to sustain it. But this piece of profundity seems now to be abandoned, (except by the sapient Common Council,) inasmuch as it is obvious to everybody else that the people who cross the Hamilton avenue, Atlantic-street, Wall-street, Catharine-street and Roosevelt-street Ferries, have just as much right to have those Ferries sustained by the surplus of the paying Ferry as the country Counties of the State have that their non-paying post-routes and Post-Offices should be sustained by those of the paying cities. The very suggestion of discontinuing the only Ferry that could be spared (the Roosevelt) is now met with a tempest of protests by the very malignants who thus denounced the Company for charging enough on the Fulton Ferry to enable them to carry on that at Roosevelt street and the others.

The system of "*commutation*" is one which enables the rich man who can advance his $10 per annum to travel cheaper than the poor man who pays as he goes, and is at the expense of the latter, for it releases the rich man from paying as much as the poor man has to do. A given sum must necessarily be raised to carry on the ferries. The "commutation" plan throws the burden on the poor man who pays each time he crosses, while the rich man escapes his fair proportion by paying a much less sum in gross.

Our wise Common Council, as if anxious to disparage the reputation of our ferries, to enhance the value of New-York up-town property at the expense of Brooklyn property, and to put an end to all means of crossing the river except at the one point of Fulton street, in effect seek to break down all the ferries except the latter. To prevent the Company from receiving a surplus on the Fulton which may sustain the other ferries, they have now given a lease of the landing adjoining the Fulton Ferry, in order that a rival ferry may be run by its side—thus taking away the means by which the other ferries can be sustained.

Now, if at the next meeting of the Board they will do something to put an end to our city railroads and to the plan for supplying the city with water, and contrive to shut off the gas from our burners, and then procure the aid of our two newspapers to proclaim to the world that our ferries are the worst and the most extortionate, our water the poorest, the remote parts of the city the least accessible, and our streets and houses the worst lighted in the world, they will, perhaps, succeed in ending what they have already damaged, the prosperity of BROOKLYN.

BROOKLYN Y. M. CHRISTIAN ASSOCIATION.

To the Editor of The N. Y. Tribune.

SIR: There appeared in the issue of your paper of Wednesday an article relating to the proceedings of the Brooklyn Young Men's Christian Association at their last meeting which is so manifestly incorrect and unreliable in many particulars that to permit its statements to remain uncontradicted would be an injustice to the Association, as well as to truth itself.

The first positive assertion of the article in question is quite untrue—at least three-fourths of the members voted for Freedom and Fremont. The Board of Management, consisting of 23 members, which is a fair representative of the larger body in this particular, stands as follows: 17 voted for Fremont, 2 for Buchanan, 2 for Fillmore, 1 out of the country, and 1 unknown. Presidents of three Republican Ward Clubs of the city were active members of our Association and in the efficient Rocky Mountain Club of the County three conspicuous places in its Executive Board were filled by our members. I boldly challenge any one to produce from our large roll of membership 20 men who voted for Buchanan.

In regard to the charge of maneuvering, choking down, &c., the truth is this: A member proposed resolutions condemnatory of Slavery, which were seconded, but from ignorance or inattention to parliamentary rules lost the opportunity of advocating them. A member of his own church moved that they be laid on the table until the next meeting, which was amended by a motion to indefinitely postpone, not from opposition to the principles contained in them so much as from the desire of the majority present to avoid a discussion which could but do harm, and from which no good could come. P. J. T. K.

Brooklyn, Dec. 11, 1856.

QUEENS COUNTY AGRICULTURAL SOCIETY.—The annual meeting of the Queens County Agricultural Society took place last week at the Court-House. From the Treasurer's report it appears that the amount of money received from various sources was $1,093 79; cash on hand, $142 21; total, $1,236; amount expended in premiums and expenses of fair, $1,010 58; balance on hand, $225 42.

The following officers were elected for the year 1857: President, Wm. T. McCoun, Oysterbay; Vice Presidents, Samuel M. Titus, Oysterbay; Stephen L. Spader, Jamaica; Jeremiah Valentine, Flushing; Wm. L. Laing, Hempstead; James P. Smith, North Hempstead; Joseph Tompkins, Newtown; Corresponding Secretary and Treasurer, John Harold, Hempstead; Managers, Wm. J. Youngs, Oysterbay; Daniel R. Suydam, Jamaica; Thomas Whitson, Flushing; S. B. Meseran, Hempstead; R. E. Thorne, North Hempstead; John W. Morrell, Newtown; Recording Secretary, Robert Willets, Flushing; Town Committee, Wm. Floyd Jones, Oysterbay; Seth Chapman, Jamaica; Wm. Frame, Flushing; J. S. J. Jones, Hempstead; Isaac H. Cock, Hempstead, North Hempstead; Jas. J. Tompkins, Newtown.

A resolution was adopted appointing Messrs. Wm. T. McCoun, R. F. Thorne, H. T. Hewlett, Robert Willets and Jeremiah Valentine a Committee to confer with persons in Kings County in reference to consolidating the two counties into one Agricultural Society.

INSANE.—Andrew J. Bartey was given in charge of the Second District Police on Sunday, by his friends, who feared he might injure himself. He is laboring under religious insanity. He was sent to his relatives in the State of Maine yesterday.

ARREST OF GAMBLERS.—On Sunday night Assistant Captain Griffith, with a posse of police, made a descent upon a gambling house in the Sixteenth Ward, and arrested Joseph Barton, George Lang, John Conrad, Anthony Lang and William Roach, who were caught in the act of gambling. The accused parties were committed to the cells.

THE COURTS—PRESENTATION OF THE GRAND JURY.—The Court of Oyer and Terminer was convened yesterday morning, before Judge Davis and Justices Emmons and Schoonmaker, for the purpose of receiving the Grand Jury, which body submitted the following presentment:

The Grand Jury convened by the Court of Oyer and Terminer of the County of Kings, in closing their labors would respectfully present to the Court that they have diligently inquired into and investigated all complaints that have been laid before them, beside others which came to the knowledge of the Jury which they deemed it their duty to examine. The Grand Inquest had before them 99 complaints, and have examined 141 witnesses, and found bills of indictment in 55 cases. The origin of this large amount of crime is traceable to the unrestricted sale of intoxicating drinks, and the Grand Jury earnestly invoke the attention of the Legislature to this fact. In accordance with the advice of the Court the Grand Jury visited the County Institutions. The County Jail was found in as good sanitary condition as circumstances would allow. The building being badly ventilated a disagreeable and unhealthy smell was perceptible in many parts. The lower tier of cells in the north wing was considered too damp and cold for the confinement of prisoners, yet they found several confined there. In the Female Department were young children and hardened and dissolute women intermingling with each other, which the jury thought should be avoided as much as possible, and also condemn the system of confining from four to six boys in one cell, thus enabling them to plot mischief and learn crime from each other. It is much to be regretted that these young offenders could not have a speedier trial. There are now in prison about fifteen boys from 8 to 15 years of age, and some of them told the Jury they had been there for months. The Penitentiary was next visited, and everything was found in complete order. The building is well ventilated, and is considered one of the best institutions of the kind in the State, and is a credit to the county. Much praise is due to Mr. Edwards for the order and discipline established there. The Alms House, Hospital and Lunatic Asylum were visited in turn and too much cannot be said in praise of these institutions. The Grand Jury would respectfully call the attention of the Supervisors to the heating apparatus of the north wing of the Alms-House, occupied by elderly women, who were shivering with the cold, and were complaining very much. They would also recommend the paving and flagging of the yard in the rear of the Nursery building, as it is in a wet and muddy condition. The attention of the Grand Jury was called to a common report that paupers had been taken from the poor-house, and prisoners from the county jail and penitentiary, on election day, to vote. The keepers of the jail, penitentiary and alms-house were brought before the Committee and examined as to the report. A number of prisoners were taken from the jail and examined, and it is due to those in charge of these institutions to say that the Jury could not find a single case having occurred, and believe the report to have arisen from the fact that the prisoners of the jail were allowed to have a vote among themselves on election day.

The Jury also presented 57 bills of indictment against persons for offenses, and were then discharged, with the thanks of the Court.

In the City Court, before Judge Culver, Mayor Hall and Supervisor Brainard, the following arraignments were made:

Peter J. Dempey, perjury; Benjamin Resley, Edw. Keeney, burglary third degree; John Johnson, grand larceny; James Heeney, illegal voting; John Barney, receiving stolen goods; John Berne, voting twice; Philip Alberts, burglary third degree; Henry Jones, assault and battery; James Mulvinill, Geo. Williams, John Repusker, grand larceny. The parties severally pleaded "Not guilty."

ESCAPE OF PRISONERS FROM THE CELLS.—Four of the young burglars recently arrested in the Eastern District, succeeded in escaping from the cells in North Fifth street, about 12 o'clock on Friday night. They tore up the planks from the bunk, and with these pried out three of the iron bars from the cell door, which admitted of their egress, and from thence they escaped through a side window into the street, and up to the present time have not been recaptured. The names of the prisoners were Wm. McElligott, Daniel Miller, James Calligan and Charles Welsh.

ENGINE TRIALS PROHIBITED.—As several of the Engine Companies of the Eastern District, in a spirit of rivalry and confidence in the power of their pet machines, have given and accepted challenges for "washes," Chief Engineer Talbot has notified them that he will suffer no trials of skill to be made unless permission is first obtained from the Common Council. As the fire laws prohibit trials of skill, the Common Council will not be likely to interfere in the matter.

ROWDYISM.—About 3 o'clock on Saturday morning, the lager beer saloon of Mr. Myers, No. 17 Remsen street, was attacked by a gang of drunken rowdies, who demolished the windows with stones and also damaged the furniture and fixtures to a considerable extent. Officers Heine and Koch were attracted to the spot by the noise and succeeded in arresting one of the gang named Tompkins Hollis, while the others succeeded in making their escape.

ACCIDENT.—A laborer named John McDermott, employed in Tuttle's coal yard in South Seventh street, had a vein severed just below the knee pan, on Saturday, by a large piece of coal rolling against his leg. Before the wound was dressed at the dispensary, the injured man had lost about a gallon of blood, and in a short time, had not medical assistance been rendered, he would have bled to death.

CHARGE OF FRAUD WITHDRAWN.—A paragraph appeared a few days since stating that Henry C. Bishop had been arrested on a charge of fraud for passing a worthless check signed Edwin F. Travis. The charge has since been withdrawn by Mr. Price, upon whom the check was passed, Mr. Bishop having redeemed the check after ascertaining that it was worthless.

ATTEMPTED BURGLARY.—On Friday night an unsuccessful attempt was made by burglars to enter the dry goods store of O. T. Bennett, No. 162 Grand street. The same evening a fur victorine valued at $9 was stolen from the store of Mr. Pinder in Grand street, and a coat was stolen from Mr. Hill's clothing store in the same street.

CAR ACCIDENT.—On Saturday, the horses attached to a railroad car became frightened in Fulton street, and ran toward the ferry at full speed. Several passengers jumped out, and three persons were somewhat injured. The horses became detached, and the car came in collision with another on the dock. Both were considerably damaged.

THEFT OF SILVER WARE.—The residence of Alfred Ladd, No. 16 Remsen street, was entered by thieves on Friday evening, who ransacked the front basement while the servants were preparing tea in the rear apartment, and succeeded in carrying off silver ware, mostly marked "F. W. W.," to the value of about $500.

IDENTIFIED.—The woman who fell down dead in Dr. J. Barker's office, No. 96 Clinton street, on Friday night, was identified as Mrs. Spear, late a nurse in the family of Wm. Talman, Eighth street near Third avenue, Gowanus. She was 50 years of age. Her remains were taken in charge by her relatives.

PICKPOCKET ARRESTED.—On Saturday evening Officer Thinkam of the Fifth District police arrested a colored boy in the act of picking the pocket of a lady named Emma Poole while walking through Grand street. The boy was committed to the cells to await examination.

VALUATION OF PROPERTY IN QUEENS COUNTY.—The following is a comparative statement of the value of real and personal estate of the several towns in Queens County, as returned by the Assessors:

Flushing.—For 1856, $4,621,025; for 1855, $4,354,055. Increase, $266,970.

North Hempstead.—For 1856, $2,263,250; for 1855, $2,292,550. Decrease, $29,300.

Hempstead.—For 1856, $2,919,300; for 1855, $2,811,493. Increase, $106,800.

Jamaica.—For 1856, $2,665,550; for 1855, $2,545,050. Increase, $120,500.

Newtown.—For 1856, $4,660,225; for 1855, $4,463,575. Increase, $196,650.

Oyster Bay.—For 1856, $3,158,400; for 1855, $2,912,500. Increase, $245,900.

Total increase $967,830, of which $841,970 is the increase on real estate.

The assessed value of land per acre in the several towns is as follows: Hempstead, $51; North Hempstead, $48; Oyster Bay, $35; Jamaica, $111; Newtown, $277; Flushing, $211.

BUSHWICK SUNDAY-SCHOOL.—At the anniversary meeting of the Sabbath School attached to the old Bushwick R. D. Church, a few evenings since, the Superintendent reported that during the year the whole number of scholars was 160; average attendance, 95; number of verses recited from Scripture, 24,498; verses from the Hymn-book, 11,229; verses from the Child's Scripture Question-book, 13,774; questions in the shorter Catechism, 3,251. Total, 52,751. Money collected by the school for missionary purposes, was $40. The whole number of verses recited for the year 1855, was 6,310; increase for the year just ended, 46,421.

BURGLAR ARRESTED.—On Saturday evening Officer Travis of the Fifth District police arrested a boy named Henry Curtis, who is implicated with the gang of young burglars who were recently arrested in the Eastern District. Accused was committed by Justice Clarry.

NEW-JERSEY ITEMS.

HOBOKEN TAXES.—The Commissioners of Appeal have decided, in the matter of taxes, to increase the valuation fixed by the Assessors upon certain property. In laying the taxes, the Assessors taxed mortgaged real estate its estimated value, less the amount of the mortgage, and taxed the holders of mortgages the amount of them, by denominating them chattels. The mortgages thus taxed amounted to $100,000. The decision of the Supreme Court of New-Jersey, in the case of Judge Cooper of Hoboken, settles the question that mortgages are not chattels, and cannot be taxed. The Commissioners of Appeal, therefore, increase the valuation of real estate the amount of the mortgage upon it. They have also increased the estimated value of the shore front, the ferry property, and the improved real estate belonging to the Hoboken Land and Improvement Company. They have also considerably increased the value of the improved meadow land lying in the rear of Hoboken, belonging to the estate of John G. Costar, from $300 to $2,000 per acre. It is probable that the Hoboken Land and Improvement Company, and the agent of the Costar estate, will appeal to the Courts. The rate of taxation in Hoboken is as follows:

For City purposes 29 cents 4 mills per	$100
For County purposes, 7 cents 3 mills per	100
Making 36 cts. 7 mills per	$100

The Charter of Hoboken limits taxation to 30 cents per $100 for City purposes.

JERSEY CITY MISSIONARY AND TRACT SOCIETY.—The Third Anniversary of this Society was held on Sunday evening at the Reformed Dutch Church in Wayne street. There was a full attendance. The most of the clergy of Jersey City were present. The report of the Secretary, J. J. Youlin, stated that during the year 41,630 visits had been made to families and 41,140 tracts, making 164,554 pages of tracts, had been distributed. During this time 56 children have been induced to attend Sunday School by the tract distributors. Donations to the Relief Fund during the year amounted to $740 55, which was disbursed to the needy. The report of the Treasurer showed the Society to be in debt $91. A collection of $51 was taken up last evening toward liquidating this debt. New officers were elected, viz: President, E. J. Danforth; Vice-President, T. H. Shaffer; Treasurer, L. F. Day; Secretary, J. Lawler. A Board of Ten Managers was chosen.

THE FIRE DEPARTMENT FUND CONCERT.—The sale of a portion of the seats for this affair did not take place on Friday evening as was expected, owing chiefly to a difference of opinion as to the propriety and policy of the movement. The object of the Committee was to increase the proceeds of the entertainment for the benefit of the fund, but as some of the members of the Department demurred, and a considerable number of the tickets, it was ascertained, had been sold without this condition being understood, the Committee decided to abandon the sale and avoid any division of feeling in the Department.

REARRESTED.—On Saturday Joseph Collins of Jersey City—the ferry hand who was stabbed on Wednesday evening last by Samson Austin in a difficulty on one of the ferry-boats—was regarded by his physician, Dr. Lutkins as in a dangerous condition. He was liable at any time to the lock-jaw from the effects of the wound. Austin had been released on $200 bail. Recorder Bedford caused him to be rearrested on Saturday night, to await the result of the injuries inflicted. On Sunday Collins had improved a little.

THE QUARANTINE.—*The Keyport Standard* says that if the Legislature of New-Jersey passes a law giving New-York the jurisdiction over Sandy Hook, for the purpose of establishing the Quarantine there, Gov. Newell will positively veto the bill. *The Standard* adds, that "it remains to be seen "whether he will not take an equally energetic, in the event of "any forcible possession, to remove the freebooters who have "already stolen Staten Island, and, virtually, Jersey City."

The dwelling-house and printing-office of the late George Evans, in Raritan township, New-Jersey, was destroyed by fire on the 5th inst., and Matthew Coughlan, aged 22 years, perished in the flames, while trying to save his money ($40), which he was about to send to his mother, in Ireland, with which to pay her passage to this country.

THE FIREMEN'S ROW.—The persons under arrest (for participating in the fight between Engine Company No. 3 and Hose Company No. 1 on Saturday evening last) were brought before Recorder Bedford yesterday morning. John Quincy Adams was discharged, there being no complaint against him; Andrew Dunn, Andrew Leather and Michael Walsh were held to bail in $50 each to keep the peace for six months. Chief Engineer French has caused the apparatus of these belligerent Companies to be locked up.

POLICE.—There were seventeen persons before Recorder Bedford on Monday morning, all of whom were arrested for drunkenness and disorderly conduct on Saturday night and Sunday.

A German named Jacob Bender, residing in Newark, and for some time past employed in New-York, was killed on Saturday evening last at the Chestnut-street depot in Newark, by jumping from a train which did not stop there under the new arrangements, as it formerly did. His skull was badly fractured and his right foot crushed. He was 36 years of age, and leaves a wife and two children.

The Report of the New-Jersey Agricultural Society, of the State Fair at Newark, states that $1,300 was paid in premiums. There were 600 premiums in money, silver cups, books and diplomas.

IDENTIFIED.—The body found drowned in the Hoboken ferry-slip some days ago has proved to be that of Jacob Roach, a painter, residing in Twenty-ninth street, New-York. He leaves a wife and children.

Orville Gardner, arrested on Tuesday last for disorderly conduct and committed in default of $300 bail to keep the peace in New Jersey for one year's time, has obtained bail and is again at liberty.

Lectures are so poorly encouraged in Newark this Winter, that unless the patronage improves it is probable that lecturing will be abandoned for the remainder of the Winter, and also for the next Winter. First-class lecturers have addressed audiences of 200 people and less.

A man named James McCleary died in the Paterson jail, the other night, of delirium tremens. During the night he raved violently, and when the Sheriff entered the prison in the morning, that place presented a shocking sight. The bed and clothing were strewn about in terrible disorder, while the man's body lay, breast downward, toward the door, with his head thrown back, and his chin against the grating bar—his face glaring out. He was dead and cold.

The Rev. Mr. Van Nest of New-York will deliver a lecture this evening, on "The Elements of Character," in the Reformed Dutch Church, before the Baconian Literary Association of Hoboken.

The Ball of the National Guard, Capt. Van Houten, took place at Odd-Fellows' Hall in that city last evening, and passed off in fine style.

LAW INTELLIGENCE.

THE GREAT PHELPS WILL CASE.

SUPREME COURT—SPECIAL TERM—DEC. 15.—Before Judge CLERKE.

CONSTRUCTION OF THE WILL OF ANSON G. PHELPS.

Olivia Phelps, Executrix of the Last Will and Testament of Anson G. Phelps, deceased, agt. Anson G. Phelps, jr., and others.

CLERKE, J.—Anson G. Phelps died 30th Nov., 1853, leaving his widow and five children, viz: A. G. Phelps, jr., Mrs. Dodge, Mrs. Pond, Mrs. Stokes, Mrs. Atterbury, and three grandchildren, being children of a deceased daughter, viz: Daniel W. James, Elizabeth E. James, Olivia P. James, and other grandchildren, who were children of his three daughters above named. Grandchildren have been born since his death.

At his death Mr. Phelps was seized and possessed of a large real and personal estate, the greater part of which was situated in this State; some portion, however, was in Connecticut, Pennsylvania, Indiana and Missouri. His real estate, exclusive of his homestead, was supposed to be worth one million sixty-nine thousand six hundred and fifty dollars ($1,069,650), upon which were mortgages to the amount of about $254,000. His personal estate, including his interest in the firm of Phelps, Dodge & Co., exclusive of that given to his widow, amounted, as per inventory, to $939,867 19. He owed, beside the mortgages, about $47,000. The net annual rent of his real estate in this city was about $24,500, and in Connecticut $9,500—total, $34,000.

Mr. Phelps left a will dated 24th March, 1852, and thereby appointed Mrs. Phelps, his wife, Executrix; Anson G. Phelps, jr., his son, Wm. E. Dodge, his son-in-law, Executors.

The Executrix has alone qualified; the Executors have not done so, although they have not renounced. The Executrix has sold to the survivors of the firm of Phelps, Dodge & Co., all the interest of the deceased in the assets of the firm for $689,569 83, payable by their five promissory notes for $28,000 each, and for the remainder they have given ——, as stated in page 88 of the case. She has sold and conveyed portions of the real estate, under the power in trust contained in the will, and continued to do so until restrained by an injunction order. To provide for her annuity of $5,000, she has set apart bonds and mortgages and other securities, amounting to $104,100, and yielding an annual interest of $7,325 50. These bonds and mortgages, &c., are held by herself. The widow has elected to take the provision made for her by the will, in lieu of dower.

OPINION.

I. The first question which I shall proceed to consider is, whether the real estate of the testator is to be *deemed* converted into money before a sale of it has been actually made by the executrix, pursuant to the power contained in the first article of the will.

The question of *equitable* conversion, as it is technically called, is determined by what a court of equity ascertains to have been the intention of the testator. This intention, if not expressly declared, can only be derived from the general tenor and effect of the will. (Jeremy's Equity, and cases there referred to.) What is properly and sufficiently directed to be done, is in equity considered as done, and the rules governing personal property will, in such case, be applied, instead of those applicable to real estate; of which the property left by a testator may nevertheless still actually consist.

By considering the first article, authorizing the sale of the real estate, in connection with the 20th and 21st articles, it will be evident that the intention of Mr. Phelps was to leave the sale optional with his executors, and not, peremptorily, to impress a new character upon his estate. This is clearly deducible from the whole scope and purpose of the will, and in the absence of any positive, imperative direction, must be conclusive.

But it is contended, as the power of sale, in this case, is a trust power, and as its execution or non-execution is not made in express terms to depend upon the volition of the executors, that it is made imperative by operation of the statute relating to powers; and, therefore, the Court must deem the estate to be equitably converted. But, whatever may be the effect of the provision referred to (1 R. S. 734, sec. 96), in its practical application to the action of the executors, the Court is now only requested to give a judicial construction to the will; and this construction must, according to the universal rule, be governed by the intention of the testator. It would be another question, if all or a majority of the parties interested, preferring a conversion, applied under the section (96) to compel a sale. It would be then time to consider whether the power was by force of the statute imperative, although by the scope and tenor of the will discretionary; and whether a sale of the real estate by executors is that description of *duty* contemplated by the statute. To ordain that a power is imperative, whether contrary or not to the intention of the testator, as deduced from his whole will, may fitly be pronounced, under any circumstances, an arbitrary rule, and should not be extended one step beyond what the literal language of the act allows. As I am not, on this occasion, called upon to enforce the performance of a duty, but to give a legal interpretation to the language of the will, I cannot, therefore, deem the real estate left by Mr. Phelps to be equitably converted, irrespective of an actual sale. To direct, under a rigid technical rule, what ought to be done, and to declare what has been done actually or constructively, even under the rule of equitable conversion, are duties very different and distinguishable.

II. By the 20th article of the will, the testator gives all the residue of his estate (real and personal) to his children and grandchildren, and then directs that it shall be divided into as many shares as he shall have children and grandchildren living at the end of ten years after his decease, provided that his son and son-in-law shall, either of them, be living at that time; but if both should happen to die before that time, then at the decease of the survivor of them, the estate shall be divided in the same manner as he directed it should be divided at the expiration of the ten years, in case the two persons mentioned were living at that time. So that the ultimate suspension is limited by lives and not by years; and in no event can the alienation and final disposition of the estate be suspended for a *longer* term than the continuance of two stated lives in being; it may be for a term considerably less than the duration of these lives; but, by no possibility, can it be for a longer term; thus conforming to the exact and literal language of the statute. These remarks apply with equal force to the ninth article of the will.

But what quantity of interest does the twentieth article give to the present children and grandchildren? The residuary gift vests the estate, at the testator's death, in the children and grandchildren (then living) as a legal estate, during the prescribed period of suspension, opening for new devisees, depending as to each devisee, on his surviving this period; and, accordingly, the income of the real property in this State, and of the personal estate everywhere, belongs during this period to the parties presumptively entitled—that is, the children and grandchildren, in equal shares, according to the number living when the income accrues. (1 R. S. 726, sec. 4; Ib. 773, sec. 2.) The income of the real property situated out of this State, presuming that the rule of the Common Law prevails in the States where it is situated, goes to the heirs at law, unless there is a departure in this respect from the rule of the Common Law in those States; and for the purpose of obtaining the necessary information on this point, I shall order a reference.

With regard to the 21st article of the will, the fund reserved for the annuity of the testator's wife is directed, by the first clause of this article, to become a part of his residuary estate, in case she should die before a division of such residuary estate should take place; which may not occur until the death of two other persons (Mr. Phelps and Mr. Dodge). This, although not prolonging the actual duration of the suspension directed by the 20th clause, nevertheless adds to the lives on which it is limited the life of Mrs. Phelps. According to the terms of the second or alternative clause of this 21st article, it is provided that the fund shall be divided among the testator's children and grandchildren living at the time of her decease, in case she should survive Mr. Phelps and Mr. Dodge; so that, according to both clauses of this article, there may be no alienation of this fund during a term of three lives. It cannot be alienated on the death of Mrs. Phelps, if she should die before Mr. Phelps and Mr. Dodge, for then it may still further await the death of both these gentlemen; it cannot be alienated on their decease, if they should both die before Mrs. Phelps, for then it must still further await the death of Mrs. Phelps. If the suspension directed by the 20th article is for two lives, this, under any aspect or under either alternative, is for three.

But, cannot this suspension be curtailed by the act or intervention of Mrs. Phelps herself, so that, by her relinquishment of all claim to the fund it may go at once into the residuary estate and abide the disposition provided in the 20th article?

III. The provision made by the testator for his wife's support by this 21st article is nothing more or nothing less than a trust for her benefit. His sole object, like that of any other person directing an annual appropriation of an income for the benefit of another, was to secure a comfortable and ample subsistence for his wife during the remainder of her life, exempt as much as possible from the interference of others or her own. Her competent support was at all events to be secured. Now, the Revised Statutes (1 R. S. 730, sec. 63, 65) expressly declare "that "no person beneficially interested in a trust for the receipt of "the rents and profits of lands, can assign or in any manner "dispose of such interest." And this, by a subsequent provision (1 R. S. 773, sec. 2), may be made fairly applicable to personal property. The trust term is inalienable within the meaning of the article of the Revised Statutes relating to "uses and trusts," as well in respect to the estate of the trustees as to the interest of the annuitants; the latter have not the power to extinguish the trust by gift, *release* or surrender. (Hawley agt. James, 16 Wend., 265. Clute agt. Mead, 8 Pai., 85.)

The absolute ownership, therefore, of this fund, reserved for the payment of Mrs. Phelps's annuity, may be suspended beyond a period of two lives, in being—the trust term being limited on three lives, and the remainder limited to take effect at the end of these lives, in favor of persons not ascertainable until the expiration of that term. The disposition of this annuity fund, as a gift over, is consequently void, and the next of kin of the testator are entitled to it, as personal property undisposed of by the will, subject to the payment of the life annuity of Mrs. Phelps.

IV. I have little doubt that the bequests in the 10th, 11th, 12th, 13th, 14th, 15th, 16th, 18th and 19th articles are valid. The Courts are always strongly inclined to sustain such bequests, and do not consider them within the application of the rigid rules of our law relating to trusts or perpetuities. These bequests are all gifts to charitable uses; the natural or artificial persons, the intended subjects of the gifts, are adequately designated, and it cannot be denied that the purposes to which the bounty of the testator is directed are clearly lawful and eminently worthy. There is nothing so indefinite in any of them as to be incapable of being executed by a judicial decree (Williams agt. Williams, 4 Sel. 525).

V. With regard to the bequest in the 17th article, I have much greater doubt. If it depends upon an event merely in contemplation by the friends of African Colonization, and if the plan, most beneficent and most practical, as it would be, at least as an experiment, to test the capacity of the African race for social and intellectual development, has not yet assumed any shape, but scarcely remaining in embryo—a mere object of fervent desire in the breast of the philanthropic—the bequest is based on a mere possibility, and is clearly too uncertain and indefinite for execution under judicial authority, and therefore under our system of government incapable of execution at all. The legacy would not be protected against this objection, on the ground that it is a charitable use; and if the intention to erect and found a College in Liberia continues the subject merely of contemplation, or conversation, or speculation, even among its most zealous and sanguine friends, the legacy may forever remain chimerical to this objection. No proof, I believe, was offered before the referee on this subject. As I think the interests of humanity and civilization require that this bequest shall be effectuated, if it can, by any means, be legally effectuated, I will direct a specific inquiry, by the same referee, to ascertain whether any steps have been taken for this purpose, whether anything has been accomplished, or is likely to be accomplished in relation to the project within a reasonable time, and whether there has been any compliance, or is likely to be any compliance, with the condition, that $100,000 shall be raised in this country for the same object. The referee will insert notices for a period to be specified, in newspapers, which I shall hereafter designate, so that they may be named in the decree, in order that an opportunity may be afforded to those who take an interest in this undertaking to furnish all the information in relation to it of which they may be possessed.

VI. The real property, situated within this State, with its income and proceeds, is the primary fund for the payment of the mortgages charged upon it (1 R. S. 749, sec. 4); but, with regard to such property situated in other States, it seems not to be disputed that the testator's personal property is the primary fund out of which the mortgages charged upon it should be satisfied.

VII. Taxes and current assessments accruing on the real property since the testator's death, must be paid by the owners for the time being, and not by the executrix, as debts of the testator. The persons entitled to the rents and profits must satisfy charges of this nature, in analogy to the principle that a tenant for life is bound to keep down such charges.

VIII. Assessments for permanent improvements are charges upon the *corpus* of the land; therefore, those entitled only to the rents and profits are not bound to liquidate such charges; but they may either advance the amount or pay the interest on such amount during the continuance of their estate.

IX. Nothing, I believe, of any consequence remains for consideration, but the instrument bearing the form of a promissory note, dated January 1, 1854, for $100,000, payable to Anson G. Phelps, jr., or order.

From the letter of the testator, written simultaneously and on the same sheet of paper with this instrument, and from the evidence in the action, it is manifest that it was executed without consideration—that it was designed for a gift.

The first question which suggests itself is, whether it constitutes a valid claim as a promissory note against the estate of the testator.

If Mr. Phelps, instead of executing this instrument, had handed over, at the time, a hundred thousand dollars to the person named as payee therein, the gift, of course, would have been valid, because it would have been an act consummated by delivery; but the case under consideration was not the giving of a hundred thousand dollars, but a promise to give a hundred thousand dollars; and the law has always declared that a promise to make a gift cannot be enforced. Whether this rule is consistent with natural equity, it would be of little use to consider on the present occasion. The natural equity of it seems to have been questioned by the learned Judge who delivered the opinion in Harris agt. Clark (3 Comstock); but, for my own part, I am very far from doubting its wisdom or equity, measuring its equity by the test of its comparative utility. The very fact that it has been the invariable rule from time immemorial, would of itself make me hesitate before I condemned it; for I regard, I hope, with no servile or superstitious awe, the accumulated results which the profound wisdom and ample experience of learned and practical men have transmitted to us through a long series of time. This rule, declaring that a promise to give cannot be enforced at law, is only saying that, like the numerous other acts which constitute by far the largest proportion of human conduct, the subject must be confined to the province of ethics and of the conscience. It would be impossible for the law to determine by any general rule when a mere promise of a gratuity should be binding; because it never could sufficiently or satisfactorily ascertain the motives in which it originated, the design by which it was influenced, or the change in the relative position of the intended donor and donee, or in the conduct or course of life of the latter, which may afford an adequate reason for revoking the promise. The law is reluctant to interfere with the disposition of any man's affairs; and it no more compels him to fulfill a beneficent design, although proclaimed by him and set down in writing, than it compels him to entertain or indulge it in the first instance, or than it compels him to tell the truth, to be grateful to his benefactors, or to dispense largely and freely to the needy out of the abundance of his possessions. The law treats all these duties as beyond its province, leaving them to the sanctions or penalties of another forum, and calling them duties of imperfect obligation; *imperfect* only, of course, in relation to the coercive means which Courts of Justice can alone employ.

By the common law, a simple contract or promise can only be sustained on the ground of a valuable consideration; a promissory note, therefore, without consideration, and intended to effectuate a mere gift at some future period, is not valid, either as a gift *inter vivos*, or as a gift *mortis causa*.

But it is contended, that although an action at common law cannot be maintained on it, a Court of Equity in the administration of the estate, where there are abundant assets, will give effect to the undoubted intention of the testator, and that, if the note is defeated, it must be rejected for a mere matter of form.

No doubt a Court of Equity will, in many instances where it is expedient, interpose to compensate defects which, from the methods of proceeding peculiar to the common law, would arise in the administration of justice. For this purpose it possesses the means of reforming instruments, of reaching or suppressing facts, by which it may determine the real merits of the case, affording the relief adapted to its circumstances, and which natural justice evidently demands. But this authority is exercised only in certain cases, such as fraud, accident, or mistake; it is never exercised to give effect to an instrument merely because the construction given to it in a Court of Law leaves it inoperative. To say that a Court of Equity will act, in a universal sense, to prevent injustice, in contravention of the rules of the common law, is saying that it can exercise an arbitrary judicial discretion, like that of the Athenian Archon or the Roman Prætor. This, of course, will not be pretended; for every lawyer knows that Courts of Equity defer as strictly to precedent as Courts of Law, and that the principal difference between them relates to the subjects of jurisdiction, and the methods of administering redress.

A Court of Equity will never regard an instrument as valid which the common law pronounces void, nor will it, by a device or fiction, such as investing it with the character of an actual transfer in trust, afford its aid to convert the instrument into anything but what it appears to be on its face, and thus save it from defeat on a matter of form. It may offend our abstract notions of right to defeat the intention of the testator; but this would not be more repugnant to such notions than defeating his whole will, if he neglected to sign or acknowledge it as his will in the presence of two witnesses, and to request them to attest it. If this *form* had been disregarded, no Court, not having plenary, arbitrary and absolute power, could make it valid.

This Court, therefore, however reluctant to contravene the wishes and intentions of the decedent, must refuse to give effect to this instrument as a promissory note.

Neither can it be sustained as a will or a codicil. This is scarcely urged; it wants the indispensable supplemental testamentary declaration, and the mode of attestation required by statute; and as to the supposed sanction claimed by virtue of the paper of Dec. 14, 1853, it is enough to say that it is only a consent to payment in course of administration, which could be effectual only with the consent of all the legatees; at best, it can only affect those who signed it, and the Court will not decree a fractional administration.

Let a decree be settled on four days' notice, in accordance with the principles and directions stated in this opinion, reserving all further directions until the coming in of the report on the subjects which I have indicated as proper for a reference.

Before Judge DAVIES.

TAXATION OF LIFE INSURANCE COMPANIES—MANDAMUS AGAINST THE BOARD OF SUPERVISORS.

The Colonial Life Assurance Company agt. the Board of Supervisors of the County of New-York.

This is an application for a mandamus to the Board of Supervisors to direct them to erase the name of the relators from the assessment-roll for the year 1856.

DAVIES, J.—The grounds of this application are that the Tax Commissioners of the City of New-York have inserted the name of the relators in the assessment-roll for the year 1856, and have assessed them for personal estate in the sum of $100,000. This assessment-roll has been returned to the Supervisors of the County of New-York, who have revised and corrected the same, and estimated and asserted the tax the relators are to pay upon such assessment. For that purpose the Supervisors have their annual meeting on the second Wednesday of July in each year. (Davies' Laws, 1,063, sec. 23). By sec. 27, same act, they must cause the corrected assessment-roll, with the warrant for the collection of the taxes assessed, to be delivered to the Receiver of Taxes on or before the 1st day of September thereafter. After the taxes are assessed, warrant issued and delivered to the Receiver of Taxes, the Supervisors have no further control over the assessment-roll, and a mandamus to them to strike the relators' name from the roll would be entirely nugatory. Their power is spent, and if the writ issued and they were to obey it, it would not stay the Receiver of Taxes in the execution of the warrant. That a mandamus should not go under such circumstances has been expressly held in two cases: The People agt. Supervisors of Westchester County, 15 Barb., 607; The People agt. Supervisors of Greene County, 12 Barb., 217. The well-settled rule is recognized by these cases, that a mandamus will not be granted when it would be unavailing from a want of power in the defendants to perform the required duty. This is a prerogative writ, which the Court may issue or withhold at discretion, and I have no doubt it would be improper to issue it in this case. The Supervisors have the power, if they choose to exercise it, if the application is made to them within six months after the tax-rolls are delivered to the Receiver of Taxes, to remit or reduce any tax. This is entirely discretionary with them, and they are constituted the judges of the goodness of the cause shown. (Sec. 28 Davies Laws, 1,083). But it seems to me that the relators have a very serious obstacle to remove before they can be relieved of this tax. It is provided by section 9 Rev. S. (vol. 1, p. 416), that if the president or other proper officer of any corporation named in any assessment roll shall show to the satisfaction of the Board of Supervisors, at their annual meeting, within two days after the commencement thereof, by affidavit, to be filed with the Clerk of the Board, that such corporation is not in the receipt of any profits or income, the name of such corporation shall be stricken off the assessment roll, and no tax shall be imposed upon it. And the assessment of any moneyed or stock corporation authorized to make dividends or its capital, from which no such affidavit shall be received, shall be conclusive evidence that such corporation was liable to taxation and was duly assessed. That Life Insurance Companies are liable to taxation, whether incorporated on the mutual principle or otherwise, on the capital they have actually employed in business as the capital of the corporation, is now well settled. (Mutual Insurance Co. of Buffalo vs. Supervisors of Erie, 4 Coms., 442. Sun Mutual Ins. Co. vs. Mayor of New-York, 4 Selden, 241. The People on the relation of the Mutual Life Ins. Co. vs. the Board of Supervisors of New-York, 20 Barb. 81.) Now the statute has declared in the most emphatic language, that if the affidavit is furnished as required, the name of the corporation shall be erased from the assessment roll and no tax imposed upon it. If it be true, therefore, that the corporation, as is now alleged at the time this assessment was made, was not in the receipt of any profits or income from the capital employed in its business in this State, then it was the duty of the proper officer of the corporation to have furnished such affidavit, and had the name of the corporation struck from the assessment roll. If such an affidavit had been furnished, and the Supervisors had omitted to discharge their duties in the premises, a writ of mandamus would have been the proper remedy to have compelled its performance. The statute also requires that this affidavit shall be furnished at the annual meeting, when the assessment rolls are revised and corrected and the tax imposed within two days after the commencement thereof. And this requirement is made for wise reasons. Taxes are laid for the support of the Government, and it is the intention of the statute in reference to the subject that all real and personal estate, with few unimportant exceptions should be assessed, and that the taxes should be equally imposed on such assessments. To ascertain such real and personal estate, and the value thereof, we have in this city Assessors and Tax Commissioners, and when they have fully ascertained all such property liable to taxation and the amount thereof, the assessment rolls are finally transmitted to the Board of Supervisors for correction and revision. They have no power to reduce or increase any valuation, or to add any property, real or personal, to the assessment rolls, or make deductions therefrom except that given to them by this ninth section in reference to corporations making the affidavit, and that conferred by the fourteenth section in reference to companies authorized to commute their taxes. The reason for all this is that a certain or ascertained sum is to be raised for the purpose of the government annually, and this has to be equally apportioned upon the assessed value, and the law intends that they shall be definitely ascertained before the apportionment of the tax is made. With all this caution and effort assessments will be made which ought not to be made and taxes will be assessed and apportioned which can not be collected, and the result is that such deficiencies have to be annually carried forward and added to the taxes of the succeeding year. But in reference to corporations assessed, the statute has declared, in the most explicit language, that the assessment of any corporation from whom no such affidavit as mentioned above shall have been received, shall be conclusive evidence that such corporation was liable to taxation and was duly assessed. This corporation was called upon, if they desired to escape taxation to have furnished such an affidavit within the time prescribed by law, and not having done so, the statute declares, in the most positive terms, that the evidence of its liability to taxation, and that it was duly assessed, is conclusive and I am not at liberty to say that it was not. The Court of Appeals, in the case of the Mutual Insurance Company of Buffalo agt. Supervisors of Erie (Supra, p. 449), affirm this doctrine in the broadest terms, and I am therefore precluded by the terms of the statute, and the doctrine of the highest Court of the State, from granting the relief sought by the relators. The motion for mandamus must be denied, with costs, but if the relators desire it, the same direction or order will be made as by Judge Mitchell in the case of The People agt. Board of Supervisors of New-York. (20 Barb, p. 86).

GENERAL TERM—Before Judges ROOSEVELT, DAVIES, and PEABODY.

THREE MORE LAWYERS.

The examiners of applicants for admission to the